

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,) CR 11-15-M-DWM-2
)
Plaintiff,)
)
vs.) ORDER
)
DAVID DERRYBERRY,)
)
Defendant.)
)

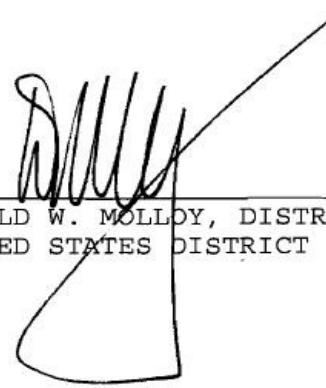
United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation in this matter on November 17, 2011. (Dkt # 43). Neither party objected. Therefore, they are not entitled to a de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). Instead, this Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept David Derryberry's guilty plea after Derryberry appeared before him under Rule 11 of the Federal Rules of Criminal Procedure and entered his plea of guilty to one count of conspiracy to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1) and 846 (Count I), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts II and III of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation, and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing, when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that David Derryberry's motion to change her plea (dkt # 27) is GRANTED.

DATED this 8th day of December, 2011.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT